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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

San Francisco Division

11 December 11, 2015 VLAD TSYN,
12 individually and on behalf of all others
similarly situated,

No. 3:14-02552-LB

13 || Plaintiff,

DISCOVERY AND CASE-MANAGEMENT ORDER

14 | v.

15 WELLS FARGO ADVISORS, LLC, and
DOES 1 through 10, inclusive,

Defendant.

This order summarizes the rulings at the December 10 case-management conference.

1. Personal cell-phone numbers and email addresses

Generally courts order the production of complete contact information. (See Joint Case-Management Conference, ECF 72¹ at 5, *citing Pippins v. KPMG LLP*, 2012 WL 19379, *14 (S.D.N.Y. Jan. 3, 2012) and *Fausto v. Cibergy Servs. Corp.*, 251 F.R.D. 427, 430 (N.D. Cal. 2008).) The court orders it here. To the extent that the defendants have only “home numbers,” the court orders those numbers produced too for the reasons stated on the record. Wells Fargo argues in part that the plaintiffs’ “thousands of repeated solicitations” to putative class members ought to change

¹Citations are to the Electronic Case File (“ECF”); pin cites are to the ECF-generated page numbers at the tops of the documents.

ORDER

ORDER

1 the outcome. That reason is not sufficiently convincing to prevent disclosure of contact information.
2 As the plaintiffs pointed out at the hearing, that is the reason for the privacy notice.

3 **2. Content of notice: Reference to earlier communications from the plaintiffs' counsel**

4 Wells Fargo proposes – and the plaintiffs oppose as redundant and disparaging – language about
5 the plaintiffs' counsel's prior communications with putative class members. (*See id.* at 8.) Wells
6 Fargo argues that it is relevant and useful to tell recipients that this is the “same case” on which they
7 may have been contacted before. (*See id.* at 10). That can be said more directly and succinctly as a
8 standalone comment: “This is the same case on which you may have been contacted previously.”
9 Otherwise, the plaintiffs are right: the proposed language is redundant of the agreed content.

10 **3. Description of the misclassification claim**

11 The plaintiffs want to describe the misclassification claim like this: “The lawsuit claims that
12 WFA violated California and federal law by failing to pay overtime compensation to Financial
13 Advisors.” (*Id.* at 10.) Wells Fargo wants to say this: “Plaintiff alleges that WFA violated California
14 and federal law by not classifying its Plaintiff and other Financial Advisors as ‘hourly’ employees
15 and therefore not paying them premium overtime compensation.” (*Id.*) The parties’ dispute in part is
16 about the inclusion of the term “hourly” — whether this term is “inflammatory” (as the plaintiffs
17 say) and whether the description should include it because it is necessarily part of the plaintiffs’
18 theory of entitlement to overtime pay (as Wells Fargo says). (*Id.* at 10-12.)

19 The court ordered a middle-ground description, such as “The lawsuit claims that Wells Fargo
20 violated federal and California law by misclassifying its Financial Advisors as employees who did
21 not need to be paid overtime compensation.” The point (as the plaintiffs argue) is that all workers
22 are paid overtime unless proven exempt. So, strictly, workers are either classified (or misclassified)
23 as *exempt*. They are not classified or misclassified as hourly or salaried. At best, the term “hourly” is
24 superfluous; the court’s description is simpler and conveys the legal context.

25 **4. Contact information for counsel**

26 Given the court’s determination that the notice will state that this is the “same case” on which
27 potential plaintiffs may have already been contacted, the parties agreed that the privacy notice will
28 contain the contact information for both plaintiffs’ and defense counsel.

1 | 5. Motions

The parties remain free to adjust the briefing and hearing schedules to meet their joint assessment of the case's best procedural posture. They also may file any motions on the ordinary briefing schedule.

IT IS SO ORDERED.

6 | Dated: December 11, 2016

LBB
LAUREL BEELER
United States Magistrate Judge

United States District Court

For the Northern District of California

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